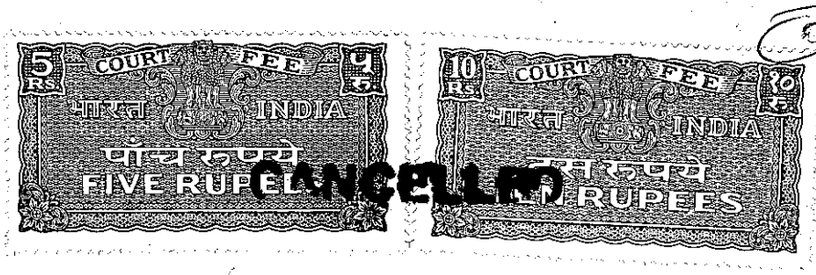


P.N. No. 2033 Presented by Shri Kumar Agrawal dated 13-04-05

BEFORE THE HIGH COURT OF CHHATTISGARH AT BILASPUR

CP 152

**SINGLE BENCH**

MA- 514 /2005(SB)

APPELLANT DEFENDANT-1 : 01. Mohammad Abdul Gaffar aged about 65 years S/o Mohd. Abdul Sattar R/o Palace Road, Po. & Distt : Raigarh, Chhattisgarh.

APPELLANT DEFENDANT-3 : 02. Asgari Akhter aged about 40 years W/o Firoj Akhtar R/o Chhote Attarmura, Po. & Distt : Raigarh (CG).

**VERSUS**

RESPONDENT PLAINTIFF : 01. Ajay Kumar Agrawal aged about 24 years S/o Brijmohan Agrawal, Occupation : Business R/o Danipara Po. & Distt : Raigarh (CG)

RESPONDENTS DEFENDENTS : 02. State of Chhattisgarh Through Collector, Raigarh (CG)

03. Murlidhar Agrawal aged about 48 years S/o Netram Agrawal R/o Baikunthpur Po. & Distt : Raigarh (CG)

RECEIVED-3381 13-4-05 CLERK to A. G. BILASPUR

MISCELLANOUS APPEAL UNDER ORDER 43 RULE 1(r ) OF CODE OF CIVIL PROCEDURE, 1908

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**आदेश पत्रक**

**मामला क्रमांक** M.A.No. 514 **सन्** 2005

..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|
| | **03.5.2005**<br><br>Shri B.R. Ghosh, learned counsel for the appellants.<br><br>Application (I.A.No.1191/2005) for urgent hearing is allowed.<br><br>Heard on admission.<br><br>This appeal under order 43 Rule 1(r) of the Code of Civil Procedure has been directed against the impugned order dated 10.3.2005 passed by 3rd Additional District Judge, Raigarh, in Civil Suit No.1-A/2005. The appellants are defendants no.1 and 3 in the said suit. It appears from perusal of the impugned order that the learned trial judge after going through the application filed under Order 39 Rule 1 and 2 of C.P.C. and also after perusal of the reply thereto passed an order that one Smt.Ajgari, wife of Firoz Akhtar is also a necessary party and the plaintiff may take necessary steps for impleading her as a party in the civil suit. The trial court also passed the order that till all this exercise is undertaken, the parties shall maintain status quo. It is against this order only, the appellants have filed this appeal before this Court. | |

Sai Photocopier

(33)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**आदेश पत्रक**

**मामला क्रमांक** M.A.No. 514 **सन्** 2005

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| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित -2- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|
| | As I have already said, a perusal of the impugned order would show that in fact the application filed by the plaintiff under Order 39 Rule 1 and 2 for grant of temporary injunction has not been adjudicated by the trial Court and an interim arrangement has been made and the appellants have filed this appeal against the said order only. In fact, the appellants should have waited for final disposal of the injunction application before filing this appeal under order 43 rule 1(r) of C.P.C. before this court.<br><br>I am not inclined to admit this appeal against the said interim direction for a period for undertaking exercise of adding a necessary party in the matter. The appeal is summarily dismissed. However, a liberty is granted to the appellant to file appropriate application for expediting hearing of injunction application at an early date by the trial Court. If such an application is filed, the trial Court will expedite hearing of injunction application itself without further delay in the matter.<br><br>With the aforesaid observation, this appeal stands finally disposed of.<br><br>Sd/-<br>Sunil Kumar Sinha<br>Judge | |

(पीछे देखिये)